

Adult Protective Services

Chapter 6.A APS Central Registry and Expungement

- A. The Department has established and maintains an APS Central Registry, in which each substantiated report regarding a person who has allegedly abused, neglected, or exploited a vulnerable adult is recorded. The Central Registry contains information regarding the vulnerable adult, the person who allegedly abused, neglected, or exploited a vulnerable adult that has been Substantiated and other data gathered for statistical purposes.

1. Release of Central Registry (Registry) Information

- a. A person whose name has been entered on the Central Registry may request that the entry be amended or expunged if they believe the entry is inaccurate or is being maintained in a way that is inconsistent with the Adult Protective Services Act. The Department may amend, expunge, or remove from the Central Registry any record upon good cause shown and upon notice to the subject of the report, at any time.
- b. Requests for expungement from the APS Central Registry will be processed through the Protection and Safety Unit in Central Office. The Protection and Safety Unit will review the expungement request and may request the case file or other information from the Local Office worker or their supervisor. The Local Office staff will review the file and any related computer information and forward all the information in regard to the expungement request to the Protection and Safety Unit within 2 working days of the request.
- c. Staff in the Central Office will review the case record, information on N-FOCUS, and any information provided by the individual who is requesting his/her name be removed from the Central Register.

2. Requests for Registry Information

- a. Upon request, a vulnerable adult who is the subject of a report, or if the vulnerable adult is legally incapacitated, the guardian or guardian ad litem of the vulnerable adult, or the person who allegedly abused, neglected, or exploited the vulnerable adult is entitled to receive a copy of all information contained in the Registry pertaining to such report. The Department must not release data that would be harmful or detrimental to the vulnerable adult or that would identify or locate a person who, in good faith, made a report or cooperated in an investigation unless ordered to do so by a court of competent jurisdiction.

3. Requests for APS Central Registry Information

- a. The Registry is used as part of the information gathered for individuals, facilities or programs with employees or volunteers who work with vulnerable adults or children. The Registry is also used by agencies or programs to gather information for persons wishing to adopt a child.
- b. Request for information from the APS Central Registry are completed by Central Office on a form approved by the Department. Information is released from the APS Central Registry only when a valid signed authorization to release information (notarized) is obtained from the individual whose name is being checked.

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- c. Information released to a third party is limited to:
 - 1) Record Found
 - a) Classification
 - b) Date of the incident, or
 - 2) No Record Found
- 4. Requests for Amendment, Removal, or Expungement of Registry Information
 - a. At any time subsequent to the completion of the Department's investigation, a vulnerable adult, his or her legal guardian, or a person who is mentioned in a report as having allegedly abused, neglected, or exploited a vulnerable adult believes the information in the report is inaccurate or being maintained in a manner inconsistent with the APS Act; he or she may request the Department to amend or expunge identifying information from the report or remove the record of such report from the Registry. Requests must be written and submitted to the Department on a form approved by the Department.
- 5. Expungement Review
 - a. The Central Office reviewer must find documentation of credible evidence that the abuse or neglect occurred, and the named perpetrator was the individual responsible. The Department may amend or expunge an entry on the Adult Protective Services Central Registry at any time for good cause.
 - b. The reviewer will also consider any information provided as to whether "Good Cause" exists to grant the expungement request.
 - c. If the expungement request is denied, the individual has the right to request an administrative hearing to have the information reviewed by an administrative hearing officer.
 - d. Exhibits are prepared for the hearing using case narratives, photos of injuries, law enforcement reports, medical records and other information in the case file.
 - e. These exhibits are provided to the hearing officer, to the individual requesting expungement, and to any attorney representing him or her.
 - f. The CFS Specialist and others involved in the case may also be called to testify at the administrative hearing, with cross examination from the other parties. The hearing officer must be provided with credible evidence to show that it is more likely than not (preponderance of evidence) that abuse or neglect occurred, and the individual whose name is on the Registry is the responsible party.
 - g. The hearing officer receives exhibits, reviews evidence and hears testimony before making a recommendation to the Director of the Division of Children and Families.
 - h. The Director makes the final decision about whether or not the individual's name will be removed from the Registry.
 - i. If the Director denies the expungement request, the individual has the right to appeal the decision to District Court.
- 6. Expungement reasons:
 - a. No case file information can be located;
 - b. Documentation is not adequate to support the classification;
 - c. The entry was made when a different definition of abuse or neglect was in use; or

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- d. There is not sufficient evidence to take the request to an administrative appeal hearing.
 - e. Expungement for reasons b, c, and d will be made after review of the adequacy of the documentation including documentation related to:
 - i. The interview and/or observation of the alleged victim;
 - ii. The interview of the alleged perpetrator;
 - iii. Information from witnesses and collateral contacts; and
 - iv. Supporting evidence regarding injuries, such as descriptions, police photos and reports, medical reports, etc.
7. Expungement "Good Cause" Reasons
- a. There are a number of reasons an entry on Central Registry may be expunged for good cause. Some examples of good cause are:
 - i. Circumstances have changed and indicate that the issue that resulted in the Central Registry entry has been resolved. Relevant factors may include:
 - 1) Seriousness of the incident;
 - 2) Length of time since report;
 - 3) Subject's willingness to accept responsibility for the incident;
 - 4) Subject's follow through with recommended services;
 - 5) Evidence of changes made by the subject;
 - 6) Extenuating circumstances that may have contributed to the incident;
 - 7) Recommendation from the Specialist and Supervisor; and
 - 8) Whether or not the individual is viewed as a continuing danger to others.
8. Service Area Expungement Input
- a. Service Area staff will be asked for input related to an expungement when a preliminary decision by the Central Office Reviewer is made to recommend that a record be expunged. Information that includes the request for expungement and supporting information will be provided to the identified Service Area contact. The Service Area Contact person will track and monitor the request for input. The Service Area will have 3 business days to provide input that supports or disagrees with the recommendation to expunge.
 - b. Exception to Service Area Input
 - i. Expungement requests that involve findings on the archived 'C1' system will not go through the process of obtaining Service Area input.
9. Internal Expungement Requests
- a. When a CFS Specialist and/or Resource Development staff recommends that an individual be expunged from the Central Register, CFS Staff will follow the protocol developed within each Service Area to submit an approved request to Central Office.
10. Administrative Hearing Process
- a. If a request for expungement is denied or the Department does not act within 30 days, an administrative hearing may be requested. An individual requesting an administrative hearing to appeal a decision by the Department must send a request for a hearing in writing to the Department's Hearing Office within 90 days of the date the letter denying the request was mailed. If the request for hearing is

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not received within 90 days the right to have an administrative hearing is forfeited.

11. CFS responsibilities

- a. The CFS may be asked to testify at the administrative hearing. In preparation for the hearing, the CFS Specialist will review the case narratives, the investigation summary and state statutes of the APS act. The hearing may be held over the phone or in person. As part of the preparation, the CFS Specialist will update their resume to show their experience, years of service, and continuing training. This information will be able to show the administrative hearing officer the expertise of the CFS Specialist.

12. Provision of Exhibits

- a. Exhibits for an administrative hearing shall be provided to the hearing officer in accordance with the hearing officer's order.

13. District Court

- a. If the expungement request is denied at hearing, the request may be appealed to District Court.